

Assembly Bill No. 703

Passed the Assembly April 27, 2015

Chief Clerk of the Assembly

Passed the Senate September 2, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 634.3 to the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 703, Bloom. Juveniles: attorney qualifications.

Existing law subjects any person under 18 years of age who commits a crime to the jurisdiction of the juvenile court, which may adjudge the person to be a ward of the court, except as specified. Under existing law, a minor has the right to counsel of his or her own choice in proceedings to declare the minor a ward of the court. If the minor and his or her parents are indigent, the minor is entitled to appointed counsel.

This bill would require counsel appointed in delinquency proceedings to, among other things, have sufficient contact with the minor to establish and maintain a meaningful and professional attorney-client relationship, including in the postdispositional phase of the proceedings. The bill would also require the Judicial Council, by July 1, 2016, to adopt rules of court regarding, among other things, the establishment of minimum hours of training and education, or sufficient recent experience in delinquency proceedings in which the attorney has demonstrated competence, necessary to be appointed as counsel in delinquency proceedings, the establishment of required training areas, and the encouragement of delinquency training provided by public defender offices and other agencies that represent minors in delinquency cases.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) As representing minors in the juvenile justice system has become much more complex, and the potential consequences of juvenile involvement in the juvenile justice system have become more severe than when the Arnold-Kennick Juvenile Court Law (Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code) was enacted, delinquency

attorneys need specialized skills, education, and training to ensure competent representation of minors in juvenile delinquency court.

(b) Competent legal representation by defense attorneys is needed to preserve the integrity of the juvenile justice system, prevent wrongful judgments, reduce unnecessary incarceration, and help ensure that minors receive the care, treatment, and guidance upon which the juvenile justice system is premised.

(c) It is essential that California's juvenile delinquency defense attorneys have the appropriate knowledge and skills needed to meet the demands of this increasingly complex area of legal practice. Advances in brain research demonstrate that children and adolescents do not possess the same cognitive, emotional, decisionmaking, and behavioral capacities as adults. Counsel must ensure that these differences are appropriately recognized in the attorney-client relationship and defense of the case.

SEC. 2. Section 634.3 is added to the Welfare and Institutions Code, to read:

634.3. (a) Counsel appointed pursuant to Section 634 to represent youth in proceedings under Sections 601 and 602 shall do all of the following:

(1) Provide effective, competent, diligent, and conscientious advocacy and make rational and informed decisions founded on adequate investigation and preparation.

(2) Provide legal representation based on the client's expressed interests, and maintain a confidential relationship with the minor.

(3) Confer with the minor prior to each court hearing, and have sufficient contact with the minor to establish and maintain a meaningful and professional attorney-client relationship, including in the postdispositional phase.

(4) When appropriate, delinquency attorneys should consult with social workers, mental health professionals, educators, and other experts reasonably necessary for the preparation of the minor's case, and, when appropriate, seek appointment of those experts pursuant to Sections 730 and 952 of the Evidence Code.

(5) Nothing in this subdivision shall be construed to modify the role of counsel pursuant to subdivision (b) of Section 657.

(b) By July 1, 2016, the Judicial Council, in consultation and collaboration with delinquency defense attorneys, judges, and other justice partners including child development experts, shall adopt rules of court to do all of the following:

(1) Establish minimum hours of training and education, or sufficient recent experience in delinquency proceedings in which the attorney has demonstrated competence, necessary in order to be appointed as counsel in delinquency proceedings. Training hours that the State Bar has approved for Minimum Continuing Legal Education (MCLE) credit shall be counted toward the MCLE hours required of all attorneys by the State Bar.

(2) Establish required training areas that may include, but are not limited to, an overview of juvenile delinquency law and procedure, child and adolescent development, special education, competence and mental health issues, counsel's ethical duties, advocacy in the postdispositional phase, appellate issues, direct and collateral consequences of court involvement for a minor, and securing effective rehabilitative resources.

(3) Encourage public defender offices and agencies that provide representation in proceedings under Sections 601 and 602 to provide training on juvenile delinquency issues that the State Bar has approved for MCLE credit.

(4) Provide that attorneys practicing in juvenile delinquency courts shall be solely responsible for compliance with the training and education requirements adopted pursuant to this section.

Approved _____, 2015

Governor